



DEPARTMENT OF LEGAL MEDICINE

Frank T. Flannery, COL, MC, USA
Chairperson
Date of Appointment - 9 October 1990

MISSION

The Department of Legal Medicine engages in consultation, education, and research on medicolegal matters confronting the military and civilian sectors. This mission includes assisting federal agencies in a myriad of issues that impact upon medical quality assurance and risk management.

During 1995, the professional staff consisted of five physicians and three nurses, who are also attorneys, another attorney, and two risk management analysts. In addition, several reservist physicians and nurses periodically augmented the staff. Medical specialties represented include family practice, internal medicine, ophthalmology, emergency medicine, neurology, cardiology, and pediatrics. The support staff consisted of a paralegal specialist, a legal assistant, a secretary, and two military enlisted persons.

During 1995, the department progressed in its mission of expanding a registry of all administrative claims and completed legal cases arising from allegations of negligence in Department of Defense (DoD) medical treatment facilities. Four full years of closed medical malpractice claims have now been received from each of the military services. Trends analysis of claims data was accomplished with the goals of identifying specific opportunities for improvement and assisting quality assurance and risk management efforts throughout the three services. To complement this trends analysis, a project was begun in 1995 to produce narrative summaries of the several hundred claims closed annually for which payments are made. In addition, the department's role as a secondary reviewer of selected DoD medical malpractice claims continued.

Work continued on a multiyear project with the Veterans Health Administration that calls for the Department of Legal Medicine to analyze VA medical malpractice cases and provide periodic reports to VA. As with the department's reports to DoD, identifying high-risk areas of clinical practice and facilitating quality improvement are the primary goals.

In addition, the department completed its first year of work under a contract with the Bureau of Prisons Health Services Division to verify the professional credentials of health care providers practicing in federal correctional institutions. This credentials verification process fulfills a mandate by the Joint Commission on Accreditation of Healthcare Organizations.

A member of the department continued to serve as the contracting officer's representative for the Civilian External Peer Review Program. This program, begun in 1986 to generate a report card on health care provided by DoD, has evolved into a review process designed to evaluate how resources are used and care is delivered by the military health care system. Practical information from the review is ultimately distributed to health care providers and administrators to support their quality assurance and resource management efforts.

The department also continued to send a physician attorney to the Public Health Service Quality Review Panel. Medical malpractice cases from the Indian Health Service, National Health Service Corps, the National Institutes of Health, and the Centers for Disease Control are reviewed by this multidisciplinary group.

STAFF

Professional

- Frank T. Flannery, COL, MC, USA, Chairperson
- Richard L. Granville, M.D., J.D., Deputy Chairperson
- Elizabeth Adkins, R.N., J.D., Nurse Attorney
- (D) David T. Armitage, COL, MC, USA, Associate Chairperson, Forensic Sciences and
Litigation Support
- Paul J. Connors, CAPT, MC, USNR, Medicolegal Consultant
- (A) Jennifer A. Dowd, J.D., Legal Analyst
- James Fitzsimmons, R.N., Risk Management Analyst
- Donald L. Fournier, M.A., Risk Management Analyst
- Georgia A. Martin, R.N., J.D., Ph.D., Nurse Attorney
- Stephen V. Mawn, CDR, MC, USN, Medicolegal Consultant
- (A) Mary Jo Wiley, R.N., J.D, Nurse Attorney

Administrative

- (D) Ericka Groleau, Sgt, USAF, Administrative Assistant
- Virginia R. Hunt, Legal Technician
- Sandra L. Johnson, Secretary
- Wanda I. McIlwain, Paralegal Specialist
- (D) Kevin L. Parks, YN3, USN, Administrative Assistant
- (A) Mark Puente, YNSN, USN, Administrative Assistant
- (A) Licardello J. Ware, Sgt, USAF, Administrative Assistant

CONSULTATION

In 1995, approximately 50 formal reports plus numerous memoranda were prepared in consultation with various governmental agencies. Many of these reports stem from an agreement with the Department of Health and Human Services, Office of the Inspector General, in which consultative assistance is provided on a fee-per-case basis. Another agreement to perform medicolegal reviews of personal injury claims on a fee-per-case basis for the United States Postal Service was initiated in 1995. In addition, the department actively engaged in hundreds of phone consultations for which no written report was necessary.

Consultative assistance was provided to the following: the Assistant Secretary of Defense for Health Affairs; the Surgeons General; the Judge Advocate General Corps of the Army, Navy, and Air Force; the Department of Justice; the Department of Veterans Affairs (VA); the Department of Health and Human Services; the Federal Bureau of Investigation; the United States Postal Service; the Department of State; the Department of Commerce; and other federal agencies requesting assistance in resolving medicolegal problems involving the United States Government. The assistance took various forms and was driven by the needs of the requesting agency. Medical malpractice claims were the primary focus of attention, but other medicolegal matters were also handled.

RESEARCH

The department's registry mission provided the direction and impetus for much of its research in 1995. Statistical analyses of medical malpractice in the federal sector were presented to various audiences through reports, publications, briefings, and lectures. Case studies using departmental files were also undertaken that highlighted specific areas of medical practice that have resulted in claims.

The goal of these and similar retrospective studies is the reduction of liability exposure through risk awareness and the limited modification of medical practice.



EDUCATION

Staff members delivered numerous lectures and briefings to military and civilian medical and legal audiences and conducted several symposia in which Continuing Medical Education (CME) credits were awarded. Of particular note, staff members participated in a number of courses and lectures sponsored by the Institute. Departmental exhibits were displayed at several national DoD and VA conventions throughout the year.

The department staff continued to provide training and experience for medical and law students, as well as for reservists from the Medical Corps of the military services. Members of the staff also maintained their faculty appointments at local medical and law centers. In addition, one staff member was a frequent contributor to a column on legal issues in a state nursing periodical.

The departmental publication, *Legal Medicine Open File*, further expanded its audience. This publication contains articles of practical significance dealing with medical quality assurance and risk management. An attached medicolegal quiz affords readers the opportunity to earn five category 1 continuing medical education (CME) credits by correspondence. Distribution in 1995 included all active-duty military Medical Corps officers and full-time staff of the Veterans Health Administration at no charge, as well as 3,000 civilian paying subscribers. Over 50,000 issues were distributed worldwide, and over 4,500 physicians received approximately 22,600 cumulative hours of CME last year, a 55% increase from 1994.

LITIGATION

The department staff continued to contribute to the defense of federal tort claims by securing expert witnesses and by closely consulting with counsel in more complex medical legal cases referred for litigation in 1995.

GOALS

This year, we will further develop Department of Defense and Veterans Affairs data bases on medical malpractice claims. We will continue to periodically collate and analyze this data and produce statistical information and reports that facilitate risk management and quality assurance activities. The DoD annual report will be augmented with narrative summaries that have been selected for their instructional value. Establishment of additional agreements to provide medicolegal reviews on a fee-for-case basis and verify provider credentials is another important priority. We also plan to maintain appropriate research and educational activities, including a further increase in the awarding of CME credit by correspondence and electronically, as well as perform a limited number of secondary consultations on medical malpractice cases.

PUBLICATIONS

Journal Articles

1. Flannery FT. *Culture Clash: Law and Science in America* by Goldberg S. J.A.M.A. 1995;273:1962. Book review.

Books and Chapters

1. Bisbing SB, McMenamin JP, Granville RL. Competency, capacity, and immunity. In: Sanbar SS, Gibofsky A, Firestone MH, LeBlang TR, eds. *Legal Medicine*. 3rd ed. St. Louis, Mo: Mosby Year-Book, Inc; 1995:27-45.

Other Publications

1. Armitage DT. Legal duties involving physicians, patients and third parties: Part 2 *Legal Medicine Open File*. 1995;95:25-34.
2. Connors PJ. Laparoscopic cholecystectomy. *Legal Medicine Open File*. 1995;95:2-9.
3. Figelman AR, Mawn SV. Pediatric bacterial meningitis. *Legal Medicine Open File*. 1995;95:18-24.

4. Flannery FT. Medicolegal grand rounds: misdiagnoses involving pregnancy. *Legal Medicine Open File*. 1995;95:39-40.
5. Granville RL, Barbour G, Halpern J, Greenblatt M, Murray P, Flannery FT, Fournier DL, Fitzsimmons JW, Department of Veterans Affairs analysis of medical malpractice claims--FY 1993 report. *Legal Medicine Open File*. 1995;95:41-46.
6. Martin GA. Laparoscopic cholecystectomy: a study from the DoD Civilian External Peer Review Program. *Legal Medicine Open File*. 1995;95:10-12.